

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11cv141**

TAMMY BRYAN

Plaintiff,

v.

**KATHY J. BRYAN, formerly known as
Kathy J. Chidnese,**

Defendant.

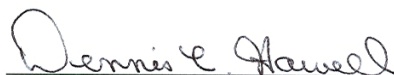
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ORDER

Pending before the Court is the Motion to Quash [# 50] filed by Third Party Mark Bryan. Third Party Bryan moves to quash subpoenas issued to a number of companies. These subpoenas seek email and telephonic communications of Third Party Bryan. Third Party Bryan moves to quash the subpoenas pursuant to the Federal Wire Tapping Act, the North Carolina Electronic Surveillance Act, and the Stored Communications Act. The brief in support of Third Party Bryan's motion, however, fails to set forth how these various statutes preclude Plaintiff from issuing subpoenas to third party companies in an attempt to obtain emails or telephone records. The subpoenas having nothing to do with the interception of communications and the attempt to introduce such evidence into the record. Rather, Plaintiff is attempting to obtain the various communications through legitimate means - a subpoena. The fact that Plaintiff may have learned of the existence of emails between Third Party Bryan

and Defendant by accessing Third Party Bryan's email account without authorization in no way renders the subpoenas to these companies unlawful or subject to being quashed. In fact, Defendant has not presented this Court with any legal authority from any federal court anywhere in the nation that has granted a motion to quash on such grounds. Accordingly, the Court finds that Third Party Bryan has failed to demonstrate that these subpoenas are subject to be quashed by him and **DENIES** the Motion to Quash [# 50]. Although the subject companies have a number of grounds pursuant to which they could quash the subpoenas under Rule 45 of the Federal Rules of Civil Procedure, such issues are not before the Court at this time as none of the companies that are the subject of the subpoenas have moved to quash the subpoenas.

Signed: October 19, 2012



Dennis L. Howell
United States Magistrate Judge

